

REMARKS

Favorable reconsideration and allowance of the subject application are respectfully requested. Claims 1-5 are pending in the present application, with claim 1 being the sole independent claim.

Claim Rejections Under 35 U.S.C. §103

The Examiner rejected claims 1, 2, 4 and 5 under 35 U.S.C. 103(a) as being unpatentable over Hobelsberger (U.S. patent 5,629,987) in view of Coffin (U.S. patent 6,343,128). This rejection is respectfully traversed.

The Examiner has failed to establish a *prima facie* case of obviousness because of a lack of motivation to combine the reference teachings. If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959).

The Examiner alleges that Coffin teaches "providing a through-hole in the pole piece to provide large excursions and beneficial excite the piezoelectric element". However, as opposed to the piezoelectric element disclosed by Hobelsberger, the piezoelectric element of Coffin is not a sensor that is excited in order to measure changes in air pressure, but a driver that drives a member

relative to an open support structure in order to displace a high frequency radiator at that same higher frequency. (See column 6, lines 1-8.) From the above it is clear that the Examiner is making an improper change to the operation of the piezoelectric element of Coffin from a driver to a sensor in order to make the combination, and consequently the teachings of the prior art are insufficient to make a *prima facie* case of obviousness. Reconsideration and withdrawal of the rejection is earnestly solicited.

With respect to the dependent claims, they should be considered allowable at least for depending from an allowable base claim.

Conclusion

In view of the above amendments and remarks, this application appears to be in condition for allowance and the Examiner is, therefore, requested to reexamine the application and pass the claims to issue.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any

overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By 

Michael K. Mutter, Reg.#29,680

1163-0474P
MKM/TSE:tm:slb

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000